

Referring Cases to DPR for Statewide Action

Improved compliance is the primary goal

Industry compliance with state and local pesticide use requirements is a primary goal of the pesticide enforcement program. This goal is achieved through outreach, education, training, and a variety of regulatory tools such as administrative civil penalties; license, certificate, registration and /or permit suspensions or revocations; and cease and desist orders, abatement orders, seizure/hold actions, and prohibit harvest orders.

Administrative civil penalties authorized by the Food and Agricultural Code and Business and Professions Code are intended to punish violators in a manner that gets their attention, and hopefully results in a positive behavioral change before higher-level state or local prosecution becomes necessary.

Use the administrative civil penalty process

The County Agricultural Commissioners' (CACs') primary means of addressing violations of laws and regulations is through the administrative civil penalty processes authorized and described by Food and Agricultural Code section 12999.5 and Business and Professions Code section 8617.5.

In most cases, the agricultural civil penalty program, and other enforcement options available to the county agricultural commissioner, should be utilized before referring a matter to the Department of Pesticide Regulation (DPR) for statewide action.

Similarly, for most violations by structural licensees, the structural civil penalty program and other enforcement options available to the CAC, should be utilized before referring a matter to the Structural Pest Control Board.

Reasons for referral to DPR

The four general reasons for initiating statewide enforcement action are:

- A pattern of violations and enforcement actions that make it apparent that the violator is making no serious or effective compliance effort.
 - A pattern of violations resulting in enforcement actions in multiple jurisdictions.
 - A single violation where the gravity of the violation warrants a higher fine level than usually obtained or available at the county level.
 - Failure to comply with terms of license probation or suspension.
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Gravity of the violation

In some cases, the nature or consequences of a single violation may be of such a serious nature as to warrant referral for state action. However, in these cases, the case should first be offered to the District or City Attorney, or Circuit Prosecutor before referral to the state is considered.

Situations where the “gravity of the violation” may be a factor in deciding to refer a case to DPR for enforcement action include:

- Violations which directly or indirectly cause human death, illness or injury of multiple persons, significant public or private property damage, or significant environmental damage (immediate and/or long term);
- Cases of gross negligence, intentional wrongdoing or general indifference to the consequences of the act

The type of pesticide(s) involved may also be a pertinent factor in determining the gravity of the violation.

Failure to comply with terms of license probation or suspension

In some cases, the Director may offer a term of probation in lieu of license suspension, or may offer a temporary suspension in lieu of license revocation. If a licensee violates the terms of probation or suspension, the Director should be notified so he/she may withdraw the suspension or probation, attach additional terms and conditions of probation, or revoke the license.

Previous policies and guidance about this subject

This guidance supersedes, ENF 2001-045, New Criteria for Determining When to Refer a Case for State Action, its attachment, Statewide Enforcement Action Referral Policy, and ENF 95-016, Criteria for Determining When to Refer a Case for State Action.
